

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,	:	Case No. 3:12-cr-121 (1)
Plaintiff,	:	Magistrate Judge Michael J. Newman
-vs-	:	
BRANDON SMITH,	:	
Defendant.	:	

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**ORDER OF DETENTION**

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In response to a motion for detention filed by the government, a detention hearing was scheduled in this case for October 3, 2012.

At the commencement of that hearing, defense counsel advised the Court of his concerns as to his client's competency to stand trial, understand the prosecution against him, and participate in his own defense. At the request of defense counsel, and with consent of counsel for the government, this matter was continued to October 9, 2012.

In the interim, defense counsel filed a motion seeking to have his client evaluated for competency. *See* doc. 30.

Given the concerns raised by defense counsel, and the apparent need for a psychiatric evaluation in this case, the Court finds detention at this time, in order for an evaluation to occur, to be appropriate. The Court also separately finds, following the October 3 and October 9 hearings and by clear and convincing evidence, that no condition or combination of conditions set forth in 18 U.S.C. §3142(c) will reasonably assure the appearance of the Defendant as

required and the safety of the community. The term “safety of the community” refers to the community’s security from criminal conduct by the Defendant, whether violent or not. *See United States v. Vance*, 851 F. 2d 166, 169-70 (6th Cir. 1988).

The Government’s motion to detain is **GRANTED**.

Accordingly, it is hereby **ORDERED** that:

1) The Defendant be committed to the custody of the Attorney General of the United States for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal;

2) The Defendant be afforded reasonable opportunity for private consultation with counsel; and

3) On Order of a Court of the United States, or upon request of an attorney for the United States, the person in charge of the facility in which the Defendant is confined deliver the Defendant to a United States Marshal or his deputy for the purpose of an appearance in connection with a court proceeding.

Defendants who appeal to a District Judge from this Order must, at the same time as filing the appeal, order a transcript of the detention hearing from the court reporter.

October 10, 2012

**s/ Michael J. Newman**  
United States Magistrate Judge